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BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
HOUSE COMMITTEE on PUBLIC WORKS & TRANSPORTATION

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As we work together to craft a reauthorization bill, the Federal pipeline safety program is at a crossroads. One road leads to a pipeline safety program that is generally status quo in level of effort in regulation, enforcement and oversight. The other road takes us to vastly increased growth in new authority, directed regulation, data collection, studies, public participation in enforcement and so on. The question we have to answer is whether the anticipated extra margin of safety and environmental protection in an expanded program would be worth increased costs of that expansion, given the overall excellent record of the industry and our Federal fiscal climate. Because, in all honesty, there is no way the Research and Special Programs Administration (RSPA) could take on the new initiatives proposed in the Bills before us today, with the resources currently available.

I believe that RSPA is in the best position to recommend growth which is both desirable and necessary to accomplish our safety mandate. To that purpose, I want to introduce George Tenley, Associate Administrator for Pipeline Safety, and Judith Kaleta, Chief Counsel, who appear with me to make the case for RSPA leadership of the pipeline safety agenda.

RSPA's Pipeline Safety Record

No one is a more active proponent of a strengthening Federal pipeline safety program than I am. I was particularly heartened by the recent wholesale support in both the House and Senate for our requested budget increase of 23% for this program since FY 91. During my tenure we have successfully increased resources for this program 51%.

When I took the helm as RSPA Administrator two and a half years ago, I was struck by the agency's far reaching responsibility in pipeline safety, and the overload of rulemakings, studies and accident investigations, given the resources available. I determined then that improvements to the pipeline safety program would be my number one priority, and we've progressed accordingly. To summarize key themes and developments during my tenure, we:

- 1) Revitalized management at the top and throughout the program to prepare for program growth;
- 2) Made prevention our number one priority, taking a more aggressive approach to inspection and enforcement and increasing environmental sensitivity;
- 3) Set new regulatory direction based on addressing most critical risks first, and
- 4) Added resources so that we and our state partners could fulfill our appropriate roles in addressing existing problems, and the challenges on the horizon, including the improvement of monitoring, detection and response.

I must point out that as we have managed this program during my tenure, we have experienced a heavy and growing rulemaking agenda, major accident investigations, increased attention from oversight bodies, aggressive enforcement and vastly improved relationships with state and industry.

We were charged with 10 significant mandates in the 1988 reauthorization. We have completed 6 and are making real progress on the balance. In addition, we've undertaken several of our own regulatory priorities, including the hydrostatic testing of older, grandfathered liquid pipelines.

We evaluated the risks involved in several major accidents, including the Northumberland and the Arthur Kill, and took action upon the discovery of corrosion on the Trans-Alaska Pipeline System.

While we were balancing these priorities, we responded on a risk basis to all 23 recommendations that the National Transportation Safety Board (NTSB) made to RSPA during this period, initiating actions on the majority to the satisfaction of NTSB.

In the enforcement area, we tripled our civil penalty collections and implemented an inspection priority system that is based on risk.

Further, we revitalized relationships with our partners in pipeline safety and fought for increasing the federal share of state pipeline safety program costs.

Our Vision of the Pipeline Program

My purpose today is to describe our vision of pipeline safety and the goals we have set and demonstrate how the Department is already aggressively pursuing these goals. In reviewing current reauthorization proposals, several of which we endorse, we have concluded that many of the provisions unnecessarily elevate to legislation issues which we are already addressing under our broad authority. The fact that we are dealing with these issues, given all the priorities facing us today, signifies that the Department and Congress have the same vision of pipeline safety, although we may choose different ways of realizing that vision.

While public safety has always been the hallmark of our mission, I can respond very positively to the challenges of many public critics today concerned with protection of the environment. I can very comfortably characterize our program, particularly the liquid pipeline program, as directed at environmental protection -- after all, the whole thrust of our prevention program is designed to keep the product in the pipe -- the most critical element of environmental protection. I would like to illustrate why, to a large extent, we have the authority and capacity to fulfill our vision, with the request to formalize our role in support of environmental protection in the hazardous liquid program.

As I mentioned, RSPA has been requesting the increased resources we need to grow and meet our many challenges, with a FY 92 budget request of \$13.9 million. Since the House and Senate have passed bills which basically agree on this funding level, we

will be able to place more attention on environmental concerns, as well as our safety interests. We will increase our prevention efforts by:

- o reviewing operator offshore pipeline inspections,
- o identifying underground pipelines which cut across sensitive environmental or urban areas,
- o investigating new technologies that will increase our tools for assuring pipeline safety, and
- o moving on a priority basis to complete rulemakings on hydrostatic testing and the internal inspection of pipelines.

Another emphasis now is providing improved access to information about pipeline location and contents. Since hazardous liquid pipeline operators need to maintain current maps and records to comply with current regulations, we did not consider this initiative a safety threat or a prevention emphasis. But, as a general program improvement, and to facilitate use of this information for environmental and emergency planning by state public safety agencies and other interested parties, we believe it is time to go further by identifying a consistent, user-friendly method to access this information.

As you know, RSPA has aggressively supported emergency planning in the hazardous materials area, and I believe we need to upgrade our efforts in the pipeline area. I believe that information on the location and content of pipelines, if it can reasonably be provided, should be available for emergency and

environmental planning. What we have achieved in the hazardous materials area should facilitate what we need to do in the pipeline area.

Given the importance of state participation in their appropriate pipeline safety roles, RSPA has made it a priority to strengthen those already effective partnerships, including:

- o increased funding for states on a performance allocation basis as incentive for oversight of all intrastate pipeline safety,
- o active dialogue and risk-based approach to problem solving with our reenergized technical advisory committees, whose membership now includes environmental representation, and
- o more interaction with affiliated national organizations of operators and regulators.

All our partners have helped us assure maximum safety with available resources without undue burdens on industry.

What We See As Necessary for Reauthorization

This reauthorization process is reminiscent of the 1988 reauthorization. The 1988 Bill mandated 6 rulemakings and 4 studies. If incorporated into a single bill, provisions of the 1991 proposals total 11 rulemakings and 4 studies. Although we endorse the well-intentioned safety and environmental goals of the proposed bills, they beg the question, "How much growth in new authority, directed regulation, studies, data collection, enforcement and Federal oversight is appropriate?" The cost of

these initiatives would be primarily felt at the back end, with large compliance requirements, most of which would be passed on to the states.

On the other hand, our reauthorization proposal provides clarified authority, including environmental emphasis in the liquid program, to enable RSPA to better address critical needs at a more moderate rate, while allowing the necessary discretion to pursue an achievable safety agenda for the near and long term. We are pleased to note that many of our proposals have been included in H.R. 1489 and S. 1583.

The Administration's bill contained some important prevention initiatives, including:

- 1) authority to require that existing pipelines accommodate internal inspection devices in certain situations,
- 2) authority to require gas distribution operators to be responsible for maintenance of customer service lines up to the building wall,
- 3) authority to recoup costs from developers for preoperational reviews, particularly important in light of increased construction activity for new facilities on the horizon,
- 4) increased maximum civil penalty amounts, and
- 5) technical amendments for better administration of our authorities, many of which have been included in the Congressional bills proposed.

Since forwarding our proposal, we have considered the advantages of a four-year reauthorization cycle and ask the Committee to consider this change as well.

Our proposal to allow the Secretary to recoup from developers the cost of preoperation safety audit of the design and construction of new pipelines has not met with the response we had hoped for or expected. RSPA is currently doing a much more thorough job in reviewing new construction work than ever before, which is an important initiative in our prevention emphasis. In anticipation of increasing new construction activity -- for example in California -- we want the flexibility in our resource planning to continue. We hope to avoid annually seeking authority to collect and spend the very limited fee because we cannot be expected to predict private energy development several years in advance and don't want to be the cause of delay of development to meet our Nation's energy needs. Without permanent spending authority, the provision becomes burdensome and ineffectual.

A provision which we did not propose but could support is that of addressing rural "gathering lines". It would allow us to regulate them even if they are in rural locations. Ruptures in rural locations may endanger pipeline employees, the population in those areas, and may result in environmental damage.

Another provision we can support requires us to publicize the availability of industry standards on the replacement of cast iron pipe and to survey the industry on progress being made in replacement. This is an important first step in addressing the

issue of cast iron pipe in aging distribution systems. We believe these two initiatives contribute to our prevention emphasis.

Views on Congressional Bills

To comment specifically on H.R. 1489 and S.1583, I must ask for a reality check here on how much growth is manageable and warranted, given the resources available and the overall excellent safety record of the industry. The new activities would spread the resources available for pipeline safety to the point of being ineffectual. The addition of activities to our workload should result from an overall assessment of the relative safety merits of the individual proposals, and many of these have not benefited from such an assessment. The sheer number of mandates would limit our ability and discretion to administer the program in a manner designed to maximize safety and environmental benefits. Likewise, we are concerned about the tight time frames associated with those activities, which would both hamstring our ability to respond to any incidents or other situations suggesting an investigation of risk and short circuit the public process. We must assure that safety standards imposed on the pipeline industry to protect the public result from a complete rulemaking process, with full consideration of benefits, costs and public comment. Finally, it is also important to note that burdens placed on our program are largely passed on to the states, who have constraints of their own.

There are two specific proposals in the bills that raise significant concerns in and of themselves. These provisions would extend the Department's jurisdiction into areas we do not believe are appropriate.

The first would establish Federal civil penalty sanctions against excavators who fail to use the local one-call damage prevention system and who damage pipelines during excavation. We believe that this enforcement responsibility is a role more appropriately assumed by the states.

Second, both bills would add authority to regulate abandoned underwater pipelines. We are working with other Federal and State agencies to develop appropriate solutions, and the grant of new Federal authority could undermine those efforts by precluding the exercise of more appropriate, existing State authority.

RSPA is accomplishing our vision of pipeline safety -- growth through improved productivity; a strong prevention focus through completion of significant rulemakings, environmental sensitivity, and increased civil penalty collections; prompt determination of risk in accident investigation and responsiveness to oversight bodies; and identification of responsibility through partnerships, according to appropriate roles. RSPA stands ready to implement an effective and forward-looking pipeline safety program. Thank you.